

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant(s): Bianchi *et al.*

Application No.: 09/941,154

Filed: 8/27/2001

Title: Assembled Implant, Including Mixed-Composition Segment

Attorney Docket No.: RTI-112RIA

Group Art Unit:
1615

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MAY 09 2002

OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE APPLICATION UNDER 37 CFR § 1.47(a)

Sir:

Enclosed herewith is a Declaration/Power of Attorney signed by all inventors except Mr. Kevin Carter (now deceased). Ms. Diane Carter, has been named administrator of Mr. Kevin Carter's estate. After several verbal and written requests, Ms. Carter has continuously refused to sign the relevant Declaration for this case. Accordingly, the signing inventors hereby Petition that the subject application be made on behalf of themselves and on behalf of the nonsigning legal representative of Mr. Kevin Carter, Ms. Diane Carter.

Statement of Facts

Mr. Kevin Carter co-invented the subject matter claimed in the above-captioned application during the course of his employment with Regeneration Technologies, Inc. (RTI). Under Mr. Carter's employment agreement with RTI, he was under an obligation to assign all rights in the invention to RTI. Incidentally, all inventors in the above-captioned application are under an obligation to assign their rights in the invention to RTI.

The undersigned has conducted telephonic communication on several occasions with Ms. Carter directly and through her attorneys. The undersigned initially spoke to Ms. Carter in November and explained to her that formal documentation relating to the subject case needed her signature as Administrator of Mr. Kevin Carter's estate. The undersigned also explained that such documentation was required to be filed with the U.S. Patent Trademark Office. Ms. Carter stated that she was represented by counsel, so the undersigned tried to coordinate execution of necessary documents through her counsel at the time. These efforts were unsuccessful due to a lack of responsiveness by Ms. Carter or her counsel.

PETITION UNDER 37 CFR § 1.47(A)

On January 4, the undersigned received a phone call from Ms. Carter, wherein she expressed that she was terminating representation by her then current counsel, and that she was seeking new counsel. She indicated that her new counsel would be contacting the undersigned to coordinate the execution of documents.

As the undersigned did not hear from Ms. Carter after two weeks, the undersigned sent copies of all relevant documents to Ms. Carter on January 17, 2002. This letter kindly requested return of the executed documents by January 22, 2002. This quick turnaround was requested in view of rapidly approaching deadlines and/or extension of time fees that have already been incurred.

On February 11, 2002, the undersigned sent a letter to Ms. Diane Carter (see attached) informing her that unless she immediately return the executed documentation for this and other cases naming Mr. Kevin Carter as an inventor, the undersigned would file a Petition requesting that the Patent Office make the application without her signature on the Declaration. As of the date of this Petition, Ms. Carter has not returned the executed documents. The signing Applicants consider Ms. Carter's lack of action as a constructive refusal to sign the necessary Declaration for the subject application.

Relief Requested

A Notice to File Missing Parts in the above-captioned application was issued on December 12, 2001. This Notice set a deadline of February 12, 2002 for timely submission of an executed inventor Declaration. Since the undersigned had not received the executed Declaration from Ms. Diane Carter, the Applicants could not comply with the requirements set forth in the December 10, 2001 Notice. As a result, an extension of time fee was incurred by the Applicants.

Applicants request that the above-captioned application be made on behalf of the signing inventors themselves and on behalf of the sole nonsigning inventor. A Declaration is submitted herewith containing signatures by all of the inventors except Ms. Carter. Grant of this Petition is requested to avoid unnecessary extension of the fees and/or abandonment of the subject application.

Pursuant to the requirements of 37 CFR 1.47(a), Ms. Diane Carter's last known address, and the address of her attorney, is as follows:

Ms. Diane Carter
8502 NW 35th Road
Gainesville, FL 32606

Mr. Larry Ciesla
P.O. Box 1161
Gainesville, FL 32602

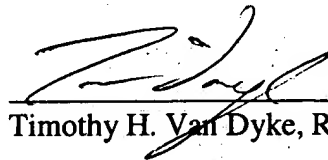
Furthermore the necessary fee under 1.17(h) is provided herewith (see attached Form PTO-2038). Should the Patent Office have any questions or require further information with respect to this matter, Applicants request that the undersigned be contacted immediately.

PETITION UNDER 37 CFR § 1.47(A)

Respectfully submitted,

3-12-2002

Date



Timothy H. Van Dyke, Reg. No. 43218

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit: 3-12-2002

Typed Name: Timothy H. Van Dyke

Signature: 